

ERIC P. ISRAEL (State Bar No. 132426)  
*eisrael@dgdk.com*  
JOHN N. TEDFORD, IV (State Bar No. 205537)  
*jtedford@dgdk.com*  
SONIA SINGH (State Bar No. 311080)  
*ssingh@dgdk.com*  
DANNING, GILL, DIAMOND & KOLLITZ, LLP  
1901 Avenue of the Stars, Suite 450  
Los Angeles, California 90067-6006  
Telephone: (310) 277-0077  
Facsimile: (310) 277-5735

Proposed Attorneys for Michael A. McConnell,  
Chapter 11 Trustee

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
NORTHERN DIVISION

In re  
HVI CAT CANYON, INC.,  
Debtor.

Case No. 9:19-bk-11573-MB

Chapter 11

**CHAPTER 11 TRUSTEE'S NOTICE OF  
LIMITED OBJECTION AND LIMITED  
OBJECTION TO MOTION OF THE  
OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS FOR AN  
ORDER (I) ESTABLISHING  
INFORMATION SHARING  
PROCEDURES AND (II) GRANTING  
RELATED RELIEF**

Date: November 12, 2019  
Time: 11:00 a.m.  
Place: Courtroom 201  
1415 State Street  
Santa Barbara, California 93101

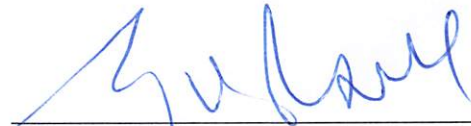
PLEASE TAKE NOTICE that Michael A. McConnell, the Chapter 11 trustee (the  
"Trustee") for the estate of HVI Cat Canyon, Inc., hereby files his limited objection to the Motion  
of the Official Committee of Unsecured Creditors for an Order (I) Establishing Information  
Sharing Procedures and (II) Granting Related Relief (*docket no. 223*) (the "Information Sharing  
Motion") filed by the Official Committee of Unsecured Creditors (the "Committee") on or about  
September 20, 2019.

1 PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's order continuing the  
2 hearing on the Information Sharing Motion entered on or about October 25, 2019 (*docket no. 447*),  
3 the Committee may, not later than November 8, 2019, file and serve its reply papers to the  
4 Trustee's response to the Information Sharing Motion.

5  
6 DATED: November 4, 2019

DANNING, GILL, DIAMOND & KOLLITZ, LLP

7  
8 By:



9 ERIC P. ISRAEL

10 Proposed Attorneys for Michael A. McConnell,  
11 Chapter 11 Trustee  
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LIMITED OBJECTION

Michael A. McConnell, the Chapter 11 trustee (the “Trustee”) for the estate of HVI Cat Canyon, Inc. (the “Debtor”), hereby objects to the Motion of the Official Committee of Unsecured Creditors for an Order (I) Establishing Information Sharing Procedures and (II) Granting Related Relief (*docket no. 223*) (the “Information Sharing Motion”) as follows:

1. On or about September 20, 2019, the Official Committee of Unsecured Creditors (the “Committee”) filed the Information Sharing Motion.

2. On or about October 4, 2019, the California State Lands Commission (the “Commission”) filed its limited objection to and request for a hearing on the Information Sharing Motion (*docket no. 348*) (the “Information Sharing Limited Objection”) on the grounds that the relief requested was premature because a significant number of creditors intended to apply for appointment of a Chapter 11 trustee, who would hire his/her own professionals. On or about October 10, 2019, the Court set the hearing on the Information Sharing Motion for October 28, 2019, at 10:00 a.m. (*docket no. 384*). The Committee filed its reply to the Information Sharing Limited Objection on or about October 11, 2019 (*docket no. 391*), and the Commission filed a response thereto on or about October 21, 2019 (*docket no. 419*).

3. On or about October 16, 2019, the Court entered its Agreed Order Granting Motion for Appointment of a Chapter 11 Trustee (*docket no. 409*). On or about October 22, 2019, the Court approved the appointment of Michael A. McConnell as the Chapter 11 trustee in this case (*docket no. 431*).

4. The Committee argues in the Information Sharing Motion that 11 U.S.C. § 1102(b)(3)(A) creates an ambiguity in regard to the Committee’s duties to provide information to creditors. The Committee seeks to clarify that it is not required to provide access to confidential and/or privilege information, and further to establish procedures to assure that such information will not be disseminated to the detriment of the Debtor’s estate.

5. Given the appointment of the Trustee, the Trustee now holds and controls the privileges formerly held by the Debtor. See Commodity Futures Trading Comm’n v. Weintraub, 471 U.S. 343, 353, 105 S. Ct. 1986, 1993, 85 L. Ed. 2d 372 (1985) (“In light of the Code’s

1 allocation of responsibilities, it is clear that the trustee plays the role most closely analogous to that  
2 of a solvent corporation's management. Given that the debtor's directors retain virtually no  
3 management powers, they should not exercise the traditional management function of controlling  
4 the corporation's attorney-client privilege...unless a contrary arrangement would be inconsistent  
5 with policies of the bankruptcy laws.”) The Trustee does not oppose the Motion except for certain  
6 language proposed in Information Sharing Motion (p.8, ll.9-19). With respect to privileges and  
7 confidences formerly held by the Debtor, the language should be changed to the Trustee and his  
8 counsel, as follows:

9 Release of Confidential Information of Third Parties. If the Information Request implicates  
10 Confidential Information of the Debtor (or any other Entity) and the Committee agrees that  
11 such request should be satisfied, or if the Committee on its own wishes to disclose such  
12 Confidential Information to creditors, the Committee may demand (the “Demand”) for the  
13 benefit of the Debtor’s creditors: (a) if the Confidential Information is information of the  
14 Debtor, by submitting a written request, each captioned as a “Committee Information  
15 Demand,” to counsel for the TrusteeDebtor, stating that such information will be disclosed  
16 in the manner described in the Demand unless the TrusteeDebtor objects to such Demand  
17 on or before fifteen (15) days after the service of such Demand; and, after the lodging of  
18 such an objection, the Committee, the Requesting Creditor and the TrusteeDebtor may  
19 schedule a hearing with the Court seeking a ruling with respect to the Demand and (b) if the  
20 Confidential Information is information of another Entity, by submitting a written request to  
21 such Entity and its counsel of record, with a copy to Trustee’sDebtor’s counsel, stating that  
22 such information will be disclosed in the manner described in the Demand unless such  
23 Entity objects to such Demand on or before fifteen (15) days after the service of such  
24 Demand; and, after the lodging of such an objection, the Committee, the Requesting  
25 Creditor, such Entity and the TrusteeDebtor may schedule a hearing with the Court seeking  
26 a ruling with respect to the Demand.

27 With that limited change, the Trustee does not oppose the requested relief.

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1 For the foregoing reasons, the Trustee requests that, if the Court grants the Informational  
2 Sharing Motion, the order be modified as noted above. The Trustee further prays for all other  
3 appropriate relief.

4  
5 DATED: November 4, 2019

DANNING, GILL, DIAMOND & KOLLITZ, LLP

6  
7 By: 

8 ERIC P. ISRAEL

9 Proposed Attorneys for Michael A. McConnell,  
Chapter 11 Trustee  
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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, CA 90067-6006.

A true and correct copy of the foregoing document entitled (*specify*): CHAPTER 11 TRUSTEE'S NOTICE OF LIMITED OBJECTION AND LIMITED OBJECTION TO MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR AN ORDER (I) ESTABLISHING INFORMATION SHARING PROCEDURES AND (II) GRANTING RELATED RELIEF will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 4, 2019 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page.

**2. SERVED BY UNITED STATES MAIL:**

On (*date*)   , I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) November 4, 2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

PERSONAL DELIVERY ALSSI – TO BE DELIVERED BY 11/5/19  
The Honorable Martin R. Barash  
U.S. Bankruptcy Court  
Bin on 1st Floor outside entry to Intake Section  
21041 Burbank Blvd.  
Woodland Hills, CA 91367

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 4, 2019  
Date

Gloria Ramos  
Printed Name

/S/ GLORIA RAMOS  
Signature

**ADDITIONAL SERVICE INFORMATION (if needed):**

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")**

- **William C Beall** will@beallandburkhardt.com, carissa@beallandburkhardt.com
- **Alicia Clough** aclough@loeb.com, mnielson@loeb.com, ladocket@loeb.com
- **Marc S Cohen** mscohen@loeb.com, klyles@loeb.com
- **Alec S DiMario** alec.dimario@mhllp.com, debra.blondheim@mhllp.com; Syreeta.shoals@mhllp.com
- **Karl J Fingerhood** karl.fingerhood@usdoj.gov, efile\_ees.enrd@usdoj.gov
- **H Alexander Fisch** Alex.Fisch@doj.ca.gov
- **Don Fisher** dfisher@ptwww.com, tblack@ptwww.com
- **Brian D Fittipaldi** brian.fittipaldi@usdoj.gov
- **Gisele M Goetz** gmgoetz@hbsb.com, ggoetz@collegesoflaw.edu
- **Karen L Grant** kgrant@silcom.com
- **Ira S Greene** Ira.Greene@lockelord.com
- **Matthew C. Heyn** Matthew.Heyn@doj.ca.gov, mcheyn@outlook.com
- **Brian L Holman** b.holman@musickeeler.com
- **Eric P Israel** eisrael@dgdk.com, danninggill@gmail.com; eisrael@ecf.inforuptcy.com
- **Razmig Izakelian** razmigizakelian@quinnemanuel.com
- **Alan H Katz** akatz@lockelord.com
- **John C Keith** john.keith@doj.ca.gov
- **Jeannie Kim** jkim@friedmanspring.com
- **Brian M Metcalf** bmetcalf@omm.com
- **David L Osias** dosias@allenmatkins.com, bcrfilings@allenmatkins.com, kdemorest@allenmatkins.com, csandoval@allenmatkins.com
- **Darren L Patrick** dpatrick@omm.com, darren-patrick-1373@ecf.pacerpro.com
- **Jeffrey N Pomerantz** jpomerantz@pszjlaw.com
- **Todd C. Ringstad** becky@ringstadlaw.com, arlene@ringstadlaw.com
- **Mitchell E Rishe** mitchell.rishe@doj.ca.gov
- **Daniel A Solitro** dsolitro@lockelord.com, ataylor2@lockelord.com
- **Ross Spence** ross@snowspencelaw.com, janissherrill@snowspencelaw.com; donnasutton@snowspencelaw.com; brittanyDecoteau@snowspencelaw.com
- **Christopher D Sullivan** csullivan@diamondmccarthy.com, mdomer@diamondmccarthy.com; kmartinez@diamondmccarthy.com
- **Jennifer Taylor** jtaylor@omm.com
- **John N Tedford** jtedford@dgdk.com, danninggill@gmail.com; jtedford@ecf.inforuptcy.com
- **Salina R Thomas** bankruptcy@co.kern.ca.us
- **Patricia B Tomasco** pattytomasco@quinnemanuel.com, barbarahowell@quinnemanuel.com; cristinagreen@quinnemanuel.com
- **Fred Whitaker** lshertzer@cwlawyers.com
- **William E. Winfield** wwinfeld@calattys.com, scuevas@calattys.com
- **Emily Young** pacerteam@gardencitygroup.com, rjacobs@ecf.epiqsystems.com; ECFInbox@epiqsystems.com